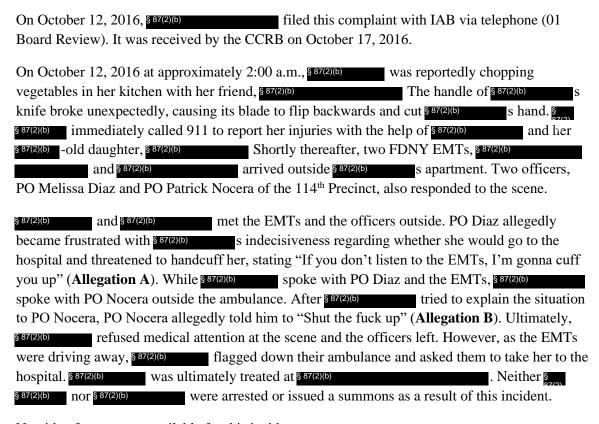
# **CCRB INVESTIGATIVE RECOMMENDATION**

Investigator:		Team:	CCRB Case #:	☐ Force	☑ Discourt.	☐ U.S.
Katherine Matejcak		Squad #1	201608716	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precinct:	18 Mo. SOL	EO SOL
Wednesday, 10/12/2016 2:00	AM	§ 87(2)(b)		114	4/12/2018	4/12/2018
Date/Time CV Reported		CV Reported At:	How CV Reported	d: Date/Time	Received at CCI	RB
Wed, 10/12/2016 3:20 AM		IAB	Phone	Mon, 10/1	7/2016 11:30 AN	Л
Complainant/Victim	Type	Home Add	ress			
Witness(es)		Home Add	ress			
Subject Officer(s)	Shield	TaxID	Command			
POM Patrick Nocera	18084	906939	114 PCT			
2. POF Melissa Diaz	21222	958504	114 PCT			
Officer(s)	Allegati	ion		Inv	estigator Recon	nmandation
` ,					estigator Recon	imenuation
A.POF Melissa Diaz	Abuse: . § 87(2)(b)	Police Officer Melissa	Diaz threatened to ha	andcuff		
B.POM Patrick Nocera	Discourtesy: Police Officer Patrick Nocera spoke discourteously to \$87(2)(b)					

### **Case Summary**



No video footage was available for this incident.

### Mediation, Civil, and Criminal Histories

- \$87(2)(b) and \$87(2)(b) both rejected mediation for this case, \$87(2)(b)
- As of January 6, 2017, no Notice of Claim has been filed in regard to this incident (02 Board Review).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

# **Civilian and Officer CCRB Histories**

- This is \$87(2)(b) s first CCRB complaint.
- PO Diaz has been a member of the NYPD for one year. This is the first CCRB allegation that has been made against her (04 Board Review).
- PO Nocera has been a member of the NYPD for 22 years. This is the first CCRB allegation that has been made against him (04 Board Review).

Page 2

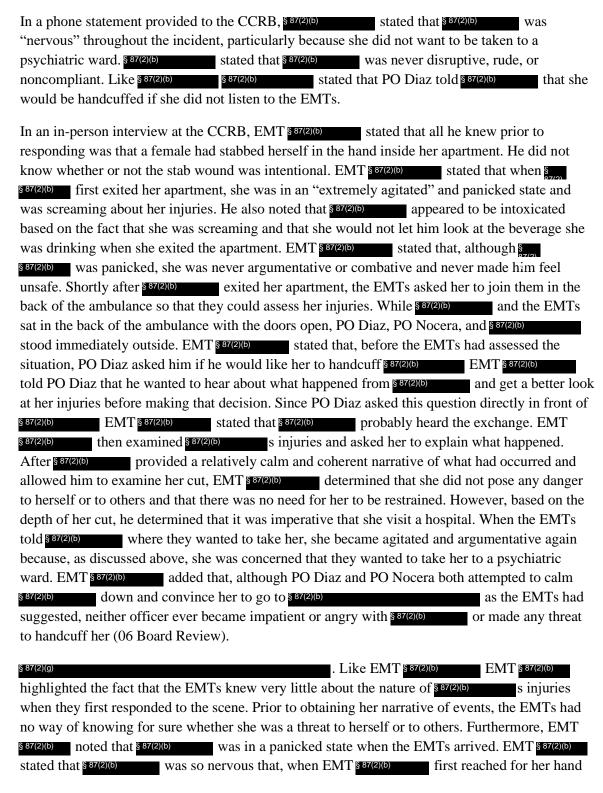
# **Potential Issues**

• After providing an initial phone statement, \$87(2)(0) refused to cooperate with the investigation. The undersigned exhausted the required number of contact attempts but did not respond to schedule an in-person interview.

## **Findings and Recommendations**

# <u>Allegation A – Abuse of Authority: Police Officer Melissa Diaz threatened to handcuff</u>

Page 3



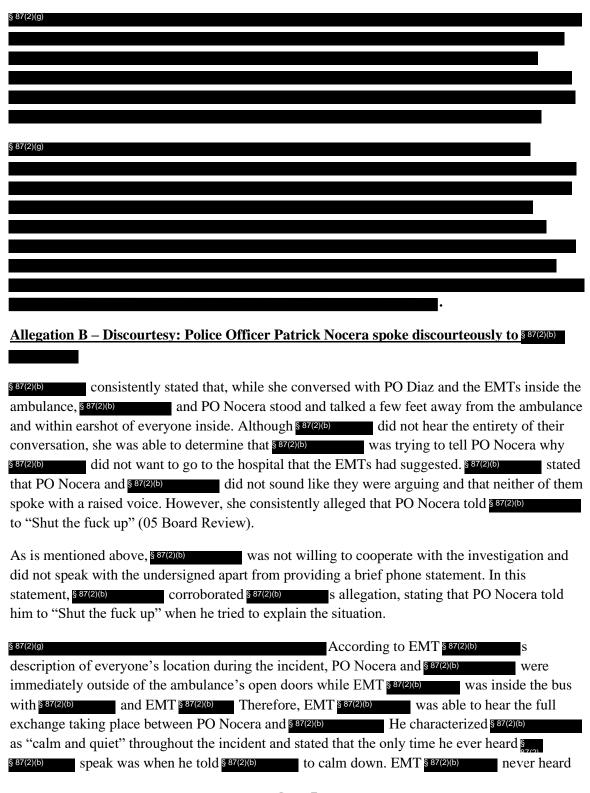
Page 4

to look at her injuries, she guarded her arm and waved him away. EMT \$87(2)(0) also stated that
admitted to having had "a few drinks" that night and may have been intoxicated.
After unsuccessfully attempting to calm §87(2)(b) down outside her apartment, EMT
suggested that she sit with the EMTs in the back of the ambulance so that they could
speak to her about what happened in a controlled environment. §87(2)(6) agreed to this, so
she, EMT \$87(2)(b) EMT \$87(2)(b) and PO Diaz all entered the back of the ambulance
together. After doing so, EMT §87(2)(b) stated that they closed all of the ambulance's doors,
meaning that § 87(2)(b) and PO Nocera were not able to hear or see what was being
discussed inside. EMT \$87(2)(b) stated that once the ambulance doors were closed, EMT
spoke with \$87(2)(b) to determine the circumstances surrounding her injuries.
Once \$87(2)(b) showed him her cut, he stated aloud that it was imperative that she go to a
hospital. Like EMT § 87(2)(b) EMT § 87(2)(b) noted that § 87(2)(b) argued with the EMTs
about which hospital she should be taken to. According to EMT \$87(2)(b) \$87(2)(b) did not
want to be taken to the hospital that the EMTs had suggested and stated that she wanted to go to
in Queens instead. However, EMT § 87(2)(b) stated that he and EMT
never requested that \$87(2)(b) be handcuffed. EMT \$87(2)(b) did not recall
whether PO Diaz asked whether the EMTs wanted \$87(2)(b) to be handcuffed. When asked if
an officer threatened to handcuff §87(2)(6) if she refused to comply with the EMTs, EMT
said yes, although he did not remember which officer made this threat or when it was
made. EMT § 87(2)(b) explained that it would have made the most logical sense for PO Diaz to
have made this threat while she was seated with \$87(2)(b) and the EMTs inside the ambulance
since \$87(2)(b) was being uncooperative and arguing about which hospital she should be
taken to. EMT \$87(2)(b) stated that this was the only time that handcuffing was mentioned in his
presence (07 Board Review).
PO Diaz explained that, prior to arriving, all she knew was that there was a "heavy bleeder" at the
given location. When \$87(2)(b) exited her apartment, PO Diaz noticed that she smelled like
alcohol and that she was having a difficult time standing up. Additionally, PO Diaz stated that
\$87(2)(b) had been drinking that night. PO Diaz stated
that the EMTs led §87(2)(b) into the back of their ambulance and sat down with her on the
bench inside. The back door to the ambulance was left open, and PO Diaz stood on the first step,
while PO Nocera and \$87(2)(b) stood directly behind her. PO Diaz stated that all parties
were within earshot of each other throughout the course of this incident. Once \$87(2)(b)
entered the ambulance, the EMTs examined her injury and told her that they wanted to take her to
. As discussed above, §87(2)(b) did not want to go to the
EMT's choice of hospital and began to argue with them and insisting that she be taken to a
hospital \$87(2)(b) . PO Diaz stated that she tried to calm \$87(2)(b) down and convince her to
go with the EMTs. However, PO Diaz stated that she never threatened to handcuff §87(2)(b)
PO Diaz added that, throughout the course of the interaction, \$87(2)(5) never did or said
anything that led her to believe that she needed to be restrained. PO Diaz stated that she did not

Page 5

have any opinion regarding whether \$\frac{87(2)(0)}{2}\$ could refuse medical attention because it is EMTs' job to make that determination. Although the EMTs told PO Diaz that \$\frac{87(2)(0)}{2}\$ "needed to go to the hospital," they never explicitly stated that she was not able to refuse meattention on scene. Therefore, when the EMTs told \$\frac{87(2)(0)}{2}\$ that she was free to take a to the hospital of her choosing on her own, PO Diaz and PO Nocera left the scene without having any additional interactions with \$\frac{87(2)(0)}{2}\$ (08 Board Review).	dical axi to
Like PO Diaz, PO Nocera noted that \$87(2)(b) appeared to be intoxicated when they arrivat her apartment because she smelled of alcohol and was being argumentative. PO Nocera stathat \$87(2)(b) was led into the ambulance by the EMTs, that the back door of the ambulance was open, and that PO Diaz was standing on the ambulance's steps. Meanwhile, PO Nocera stated that PO Diaz was standing on the street. During this conversation, PO Nocera overheard \$87(2)(b) arguing with the EMTs about which hospital she should be taken to. stated that, other than this argument, \$87(2)(b) was fully cooperative and never behaved way that caused him to believe that she needed to be restrained or that she was at risk of harmherself or others. PO Nocera stated that PO Diaz never told \$87(2)(b) that she could be handcuffed. Although PO Nocera stated that he never spoke directly to the EMTs about \$87(2)(b) s ability to refuse medical attention, he assumed that she was fully able to do so become behaviors never led him to believe otherwise. As soon as \$87(2)(b) refused medical attention, he and PO Diaz left the scene without incident (09 Board Review).	ated ince and He in a ming
§ 87(2)(g)	
Patrol Guide Procedure 221-13 instructs officers to safeguard mentally ill or emotionally disturbed persons who do not voluntarily seek medical assistance. It defines an emotionally disturbed person as someone who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result is serious injury to himself or others (10 Board Review). This procedure also specifies that, in other remove an EDP to a hospital in an ambulance, a member of the service may use restraining equipment including handcuffs if the patient is violent, resists, or if they are directed to do so physician examiner (10 Board Review).	order g

Page 6



Page 7

either officer speak to \$87(2)(6) and never heard any heated argument taking place outside the ambulance. He never heard PO Nocera tell \$87(2)(6) to "Shut the fuck up," never heard any officer use any form of profanity on scene, and never heard any civilian complain that an officer had cursed at them (06 Board Review).
EMT \$87(2)(0) stated that the ambulance's doors were shut when the alleged misconduct took place, that PO Nocera and \$87(2)(0) were alone outside, and that no one inside the ambulance would have been able to see or hear what was taking place between the two of them outside. Consequently, EMT \$87(2)(0) did not know whether PO Nocera and \$87(2)(0) were ever engaged in an argument or whether PO Nocera ever told \$87(2)(0) to "Shut the fuck up." He stated that he never heard any officer curse at any civilian and was never made aware of any complaints that this had occurred (07 Board Review).
In PO Diaz's CCRB interview, she stated that the ambulance doors were open and that PO Nocera and \$87(2)(6) were standing directly outside and within earshot of everyone inside the ambulance. PO Diaz stated that she overheard a conversation taking place between PO Nocera and \$87(2)(6) but characterized it as "normal" and "pleasant." Although PO Diaz did not hear the entirety of their conversation, she stated that she never heard PO Nocera tell \$87(2)(6) to "Shut the fuck up" or curse at him in any other way (08 Board Review).
PO Nocera stated that he and \$87(2)(b) were engaged in a conversation directly outside the open ambulance doors within earshot of the people inside. Although \$87(2)(b) was not argumentative with officers or EMTs in any way, he repeatedly called out to \$87(2)(b) from the street, telling her to calm down. PO Nocera stated that he tried to calm \$87(2)(b) down by reassuring him that \$87(2)(b) would be fine and that \$87(2)(b) thanked him for doing a good job. He denied the allegation that he told \$87(2)(b) to "Shut the fuck up" (09 Board Review).
§ 87(2)(g)

Page 8

Squad: 1			
Investigator: _	Signature	Print	Date
Squad Leader: _	Title/Signature	Print	 Date
Reviewer: _	Title/Signature	Print	 Date